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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/817,535 | 03/26/2001 | Hector Franco | HFRANCO.001A | 6849 |

7590

02/26/2003

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EXAMINER

THOMPSON JR, FOREST

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,535

Applicant(s)

FRANCO, HECTOR

Examiner

Forest Thompson Jr.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-18 have been examined.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and, therefore, are found to be non-statutory subject matter. For example, in independent claims 1, 7 and 18, the applicant has not recited the use of any technology and, therefore, claims 1, 7 and 18 can be performed manually.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Art Unit: 3625

4. Claim 18 is rejected under 35 U.S.C. 102(a) as being anticipated by Hall et al. (U.S. Patent No. 6,026,375).

Claim 18: Hall et al. discloses the applicant's invention through the disclosure:

- identifying a consumer (col. 2 lines 49-61);
- identifying a merchant (col. 2 lines 42-61);
- identifying at least one aggregation location at which the consumer can receive products (fig. 6C [675]);
- obtaining from the consumer a selection of one of the aggregation locations (fig. 6C [678]); and
- notifying the merchant of the identity of the aggregation location selected by the receiver (fig. 6C [675]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (U.S. Patent No. 6,026,375), and further in view of and DiAngelo et al. (U.S. Patent No. 6,101,482).

Claims 1-17: Hall et al. discloses the applicant's invention through the disclosure:

- identifying a consumer (col. 2 lines 49-61);
- identifying a merchant (col. 2 lines 42-61);
- identifying a plurality of items ordered by a consumer (col. 8 lines 45-50);
- identifying at least one aggregation location at which the consumer can receive products (fig. 6C [675]);
- obtaining from the consumer a selection of one of the aggregation locations (fig. 6C [678]); and
- notifying the merchant of the identity of the aggregation location selected by the receiver (fig. 6C [675]).
- receiving at least one of the items at an aggregation location (fig. 6C [684; 688]);
- aggregating the plurality of items at the aggregation location (fig. 6C [684; 688]);

Hall et al. does not specifically disclose identifying a plurality of items ordered by a consumer from a plurality of merchants. However, Hall et al. does disclose the service provider may be, for example, any merchant or service provider who can accept orders and satisfy the order upon the customer's arrival at a particular location (col. 10 lines 20-23). Additionally, DiAngelo discloses *At a given time, for example, after all Web sites have been visited and the information gathered, the transaction information (as originally collected and/or as filtered, updated or enhanced) is then used to effect a purchase of given products and services* (Abstract). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the

Art Unit: 3625

disclosure of Hall et al. to specifically identify a plurality of items ordered by a consumer from a plurality of merchants, as disclosed by DiAngelo, for the motivation of conducting on-line sales to customers.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:

- Ferguson et al. (U.S. Patent No. 5,966,697) discloses a system and method for shopping at a variety of different vendors easily and securely is disclosed, that includes a user computer, a checkout processor, and one or more merchant computers interconnected via a network; and
- Hartman et al. (U.S. Patent No. 5,960,411) discloses a method and system for placing an order to purchase an item via the Internet.
- Shavit (U.S. Patent No. 4,799,156) discloses a system for interactive on-line electronic communications and processing of business transactions between a plurality of different types of independent users including at least a plurality of sellers, and a plurality of buyers, as well as financial institutions, and freight service providers.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30-3:30.

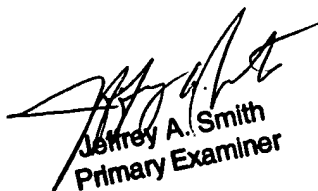
Art Unit: 3625

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



F. Thompson
February 21, 2003



Jeffrey A. Smith
Primary Examiner